

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

JACOB PORTILLO,

Plaintiff,

v.

No. CIV 08-342 BB/LCS

STATE OF NEW MEXICO, *ex rel* TAX &
REVENUE DEPARTMENT, a state government
agency for the State of New Mexico,

Defendant.

MEMORANDUM OPINION
AND
ORDER DISMISSING INTENTIONAL INFLECTION
OF EMOTIONAL DISTRESS

THIS MATTER is before the Court on *Defendant's Motion to Dismiss* Plaintiff's claims for 42 U.S.C. § 1983 and the intentional infliction of emotional distress [Doc. 7], and Plaintiff failing to respond to Defendant's *Motion*, the *Motion* will be Granted.

Discussion

Defendant filed this *Motion* on April 3, 2008. Under D.N.M. LR-Civ. 7.6(3), Plaintiff had fourteen days to respond. It has been over thirty days and Plaintiff has not filed a response. Under D.N.M. LR-Civ. 7.1(b), "[T]he failure of a party to file and serve a response in opposition to a motion within the time prescribed for doing so constitutes consent to grant the motion."

ORDER

No response having been timely filed, *Defendant's Motion to Dismiss* Plaintiff's claims under 42 U.S.C. § 1983 and for intentional infliction of emotional distress is GRANTED, and such claims are DISMISSED with prejudice.

SO ORDERED this 12th day of May, 2008.

A handwritten signature in black ink, appearing to read "Bruce D. Black", written over a horizontal line.

BRUCE D. BLACK
United States District Judge